

§ 766.2

sanctions, this part describes the procedures for imposing temporary denial orders to prevent imminent violations of the EAA, the EAR, or any order, license or authorization issued thereunder. This part also describes the procedures for taking the discretionary protective administrative action of denying the export privileges of persons who have been convicted of violating any of the statutes, including the EAA, listed in section 11(h) of the EAA. Nothing in this part shall be construed as applying to or limiting other administrative or enforcement action relating to the EAA or the EAR, including the exercise of any investigative authorities conferred by the EAA. This part does not confer any procedural rights or impose any requirements based on the Administrative Procedure Act for proceedings charging violations under the EAA, except as expressly provided for in this part.

§ 766.2 Definitions.

As used in this part, the following definitions apply:

Administrative law judge. The person authorized to conduct hearings in administrative enforcement proceedings brought under the EAA or to hear appeals from the imposition of temporary denial orders. The term “judge” may be used for brevity when it is clear that the reference is to the administrative law judge.

Assistant Secretary. The Assistant Secretary for Export Enforcement, Bureau of Export Administration.

Bureau of Export Administration (BXA). Bureau of Export Administration, United States Department of Commerce, and all of its component units, including, in particular for purposes of this part, the Office of Antiboycott Compliance, the Office of Export Enforcement, and the Office of Exporter Services.

Final decision. A decision or order assessing a civil penalty, denial of export privileges or other sanction, or otherwise disposing of or dismissing a case, which is not subject to further review under this part, but which is subject to collection proceedings or judicial review in an appropriate Federal district court as authorized by law.

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Initial decision. A decision of the administrative law judge in proceedings involving violations relating to part 760 of the EAR, which is subject to appellate review by the Under Secretary for Export Administration, but which becomes the final decision in the absence of such an appeal.

Party. BXA and any person named as a respondent under this part.

Recommended decision. A decision of the administrative law judge in proceedings involving violations other than those relating to part 760 of the EAR, which is subject to review by the Under Secretary of Commerce for Export Administration, who issues a written order affirming, modifying or vacating the recommended decision.

Respondent. Any person named as the subject of a charging letter, proposed charging letter, temporary denial order, or other order proposed or issued under this part.

Under Secretary. The Under Secretary for Export Administration, United States Department of Commerce.

§ 766.3 Institution of administrative enforcement proceedings.

(a) *Charging letters.* The Director of the Office of Export Enforcement¹ (OEE) or the Director of the Office of Antiboycott Compliance (OAC), as appropriate, may begin administrative enforcement proceedings under this part by issuing a charging letter in the name of BXA. The charging letter shall constitute the formal complaint and will state that there is reason to believe that a violation of the EAA, the EAR, or any order, license or authorization issued thereunder, has occurred. It will set forth the essential facts about the alleged violation, refer to the specific regulatory or other provisions involved, and give notice of the sanctions available under part 764 of the EAR. The charging letter will inform the respondent that failure to answer the charges as provided in § 766.6 of this part will be treated as a default

¹By agreement with the Director of the Office of Strategic Industries and Economic Resource Administration, the Director of the Office of Export Enforcement enforces short supply controls imposed under section 7 of the EAA.